

2854



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : Before the Examiner:  
Scott A. Morgan et al. : Angela Armstrong  
Serial No.: 09/213,856 : Group Art Unit: 2654  
Filed: December 17, 1998 : Intellectual Property  
Title: SPEECH COMMAND INPUT : Law Department - 4054  
RECOGNITION SYSTEM FOR : International Business  
INTERACTIVE COMPUTER DISPLAY : Machines Corporation  
WITH INTERPRETATION OF : 11400 Burnet Road  
ANCILLARY RELEVANT SPEECH : Austin, Texas 78758  
QUERY TERMS INTO COMMANDS : Date: July 16, 2006  
Customer No. 32,329

CERTIFICATE OF MAILING

I hereby certify that this correspondence including a  
Petition to the Director of the USPTO is being deposited  
with the United States Postal Service as first class mail in  
an envelope addressed to: Mail Stop Petition, Commissioner  
for Patents, P.O. Box 1450 Alexandria, VA 22313-1450 on

July 16, 2006  
*V.D. KRAFT J.D. Kraft 7/16/06*

Mail Stop: Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PETITION TO THE DIRECTOR OF THE USPTO UNDER 37 CFR 1.181

The Director of the USPTO is hereby petitioned under 37  
CFR 1.181 to correct an error by the US Patent Office which  
the Applicants herein have found not possible to correct by  
a formal status inquiry and numerous telephone calls placed  
to the Examiner herein.

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### Relief Requested

The U.S. Patent Office is respectfully requested to:

- withdraw the Notice of Abandonment of this Application mailed March 22, 2005 which erroneously made by the Patent Office;

- enter the Terminal Disclaimer, submitted on October 6, 2004, disclaiming the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of copending U. S. Patent Application, Serial No. 09/213,858; and

- issue a notice of allowance for claims 1-3, 5-8, 10-13, and 15 in the instant Application.

### Supporting Facts

The Notice of Abandonment herein mailed March 22, 2005. was incorrect and improper.

In the Appeal Decision herein, on September 22, 2004, the Final Rejection under 35 USC 103 was reversed.

In addition, there was a provisional Double Patenting rejection over copending Application SN 09/213,858 assigned to a common assignee which the Examiner and Applicant concurred was provisional until allowable subject matter was found in copending Application SN 09/213,858.

Applicants indicated in their Appeal Brief that they were prepared to file an appropriate Terminal Disclaimer in this Application as soon as allowable subject matter were found in copending Application SN 09/213,858.

The Decision on Appeal which reversed the 35 USC 103 rejection, stated that the provisional Double Patenting rejection was affirmed.

On October 6, 2004, being aware that allowable subject matter was indicated by the present Examiner in copending

Application SN 09/213,858, the Applicants filed a Response herein including an appropriate Terminal Disclaimer.

Applicants have done everything that they could have done in this prosecution as a result of the Decision on Appeal.

What the Examiner should have done, upon finding allowable claims in copending Application SN 09/213,858 would have been to reopen Ex parte prosecution in the present Application and finalize the provisional Double Patenting Rejection, and then either accept the Terminal Disclaimer already filed herein, or give Applicants an opportunity to respond to the final double patenting rejection.

There was no basis for the Examiner's Notice of Abandonment of March 22, 2005.

Applicants have acted diligently in trying to have the U.S. Patent correct the present situation:

On April 7, 2005, Applicants filed a Formal Response to the Notice of Abandonment which included the above explanation which included a Status Inquiry.

Also on April 7, 2005, Applicants sent Examiner Angela A. Armstrong and her Supervisor Richemond Dorvil by facsimile a supplementary inquiry which requested the presently requested correction and relief.

This was followed up by the following telephone inquiries:

May 10, 2005, telephone message sent for Examiner Armstrong.

May 12, 2005 follow up message for the Examiner.

On May 20, 2005, the Office of the undersigned Attorney was advised by telephone that the Patent Office was issuing a Notice of Allowance in Copending Application SN 09/213,858, and the Abandonment Notice herein would be

withdrawn so that Applicants given the opportunity to use their Terminal Disclaimer to avoid the now allowed claims in the copending Application. Attorney's Office was advised by Examiner that the above procedure would be completed by the first week in June, 2005.

On June 7, 2005 when nothing was forthcoming, a telephone message was left for Examiner Armstrong.

On July 21, 2005, a follow up message was left for Examiner.

On July 28, 2005, a follow up message was left for Examiner.

On August 18, 2005, a follow up message was left for Examiner.

Over the ensuing months, anticipating imminent correction on the part of the Patent Office, the Office of the Attorney did make several follow-up telephone inquiry calls with no significant results. These were not noted in our logs because there was nothing to report. However, after an inquiry by telephone by Attorney's Office, Examiner Armstrong, on June 1, 2006 indicated that the Notice of Allowance in Copending Application SN 09/213,858 should have mailed, and the Abandonment Notice herein would be withdrawn

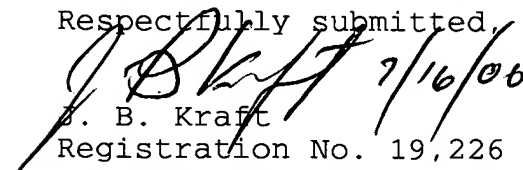
On June 15, 2006, a telephone inquiry was made with no results.

Applicants believe that they have brought this situation to the attention of Examiner immediately after its discovery, and had assurances from Examiner that appropriate action would be taken by the Patent Office with no significant results. Applicants believe that they have done everything possible to try to resolve the present problem. They respectfully request that the Director take appropriate action to resolve this matter.

Accordingly, the Patent Office is respectfully requested to withdraw the Abandonment of this Application, enter the Terminal Disclaimer submitted on October 6, 2005, and allow claims 1-3, 5-8, 10-13, and 15 in accordance with the relief requested above.

The Office is authorized to charge any fees that may be involved to Account 09-0447. (Duplicate of request included)

Respectfully submitted,

 7/16/06  
J. B. Kraft  
Registration No. 19,226  
Attorney for Applicants  
(512) 473-2303

PLEASE MAIL ALL CORRESPONDENCE TO:

Justin Dillon  
IPLaw Dept. - IMAD 4054  
IBM Corporation  
11400 Burnet Road  
Austin, Texas 78758